

UNION-STATE RELATIONS IN A FEDERAL SET-UP: THE INDIAN EXPERIENCE

ABSTRACT

Thesis

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ABSTRACT

This thesis has nine chapters followed by bibliography and the decision of Allahabad high court on President rule in Uttar Pradesh as appendix I and an overview of the report of Department of Economic and Social Planning as appendix II

Chapter I has been devoted to trace evolution of Indian Federalism with a social perspective in mind. While tracing this perspective the historical facts about various Acts of Government of India were considered. In a way this chapter provide evolution of various perspectives of Indian Constitution way back to 1773 covering the Charter Act of 1833 Government of India Act of 1909,1935 also covering situation during First and Second World War and the political situation on the verge of Indian Independence.

In chapter II, working of Union-State relations in India has been studied. The historical background covering working of ancient Greek Republics to the recent American Federation have been studied. The Indian freedom struggle also contributed in the formation of the constitution of Indian in various ways and at various levels. The Acts of Government of India covering such provision and also studying its various constituents that is role of Governor, the functioning of

Democracy, Mechanism of inter-state disputes and law and order situation have been studied. The provisions having economic and financial dimensions are also covered in this chapter.

Socio-Political Tension Areas in Union-State relation and demand for (more) state autonomy have been studied in chapter III. Scholars and also the constitution-makers have envisaged autonomy of state and union state relations in different ways. Basically Indian constitution envisages a federal structure with a unitary basis. Various provision relating to role of governor imposition of president's rule, process of reservation bills, position of state in fiscal matters, Economic planning, electronic media, autonomy demands and Sarkaria Commission which has been appointed to look into Union-State relations.

Chapter IV has been devoted to various Dimensions of Indian Federalism.

During Operationalisation of the constitution of India, strains have been found in the relationship between Union-State. The chapter V studies such strains particularly in deployment of armed forces and other matters. Public order is a basically state matter but when it goes out of hand (it is very difficult to say it sometimes) the central forces

including army are deployed at the instance of state government or sometime at the initiative of Union. In this chapter the researcher has tried to sight such strained relationships in this vibrant democracy.

Chapter VI has been devoted to provisions of emergency powers its uses and abuses. A case study of decision on powers used in Punjab, Jammu & Kashmir and Adyodha crisis has been presentcd. The role of judiciary during this period or during emergency has also been studied.

Chapter VII has been devoted to enlisting of problems and prospects in the Centre State Relations especially role of Governor, Secular face of the constitution. The chapter ends with some suggestions in this regard.

Chapter VIII summarizes the recommendations of Sarkaria Commission and other commissions in the field of Industries, Mines and Minerals, Forests and Environment, Food and Civil Supplies, Trade and Commerce, Mass media and Union Territories.

In view of the forgoing factors, the scholar has drawn some conclusions on the ticklish problems of Union-State Relations. The scholar cannot authoritatively conclude or suggest remedies for Union-State Relations as it entirely depends on the " Political Will" of the

political parties in India to behave in a set pattern whether they are in government or in the opposition to uphold the Constitution of India so that no constitutional crisis arises thereby strengthening the democracy.

After great and lengthy debate the framers of the Indian constitution came to the conclusion that we must have a federal form of government with a fairly strong centre. The Indian Constitution is modeled on the principle of federalism, though not of classical type. From the functional, such a Constitution is not a static format, but a dynamic process. Within this process, the interplay of centrifugal and centripetal forces influenced by changing social, economic and political environment, constantly strives to find a new adjustment for a balance between unity and diversity.

The very dynamism of the system with all its checks and balances brings in its wake problems and conflicts in the working of Centre-State relations. A medley of strains generated by such problems may stifle the working of the system and endanger the unity and integrity of the country. It is, therefore, necessary to review from time to time, in the light of the past experience, the evolution of Centre-State arrangements not only for the purpose of identifying persistent problems and seeking their solutions, but also to attune the system to the changing times so

that propelled by the spirit of common endeavor and cooperative effort, it takes the country ever forward towards the social welfare goals set out in the Constitution.

Again, in recent years, the Indian polity had been severely disturbed, its democratic foundation sapped and the Centre-state power equation had faced a test due to Anandpur Sahib Resolution in the Punjab and the subsequent movements there as well as the emergence of fissiparous tendencies in the North-Eastern States.

We have seen and watched the working of Indian federal system in the last Fifty Years or so with caution. It may be too early to give a final verdict on the working of our federal Government and more so on the ticklish problem of Centre-State relations. However, we can conclude that inspite of certain problems the system has worked fairly well and there is no reason for being panicky. With the growth of multiple party system in our country, we are having coalition governments in recent years and there is no more one party rule in the country. This has strained the Centre-State relations. But this may be a passing phase and things will settle down in near future and there will be no more strained Centre-State relations in the days to come.

The Sarkaria Commission is cautious about suggesting sweeping constitutional amendments which could open a Pandora box, it advocates the adoption of conventions that would encourage greater devolution and decentralisation all along the line. Thus, it merely recommends various measures that would enhance "*Co-operative federalism*" in the areas of planning and financial relations as between the Centre and the States, but seeks to establish the third tier of Government on firmer foundations. Specifically it recommends that Zilla Parishads and Municipal corporations "*need to be significantly strengthened both financially and functionally*" and that regular elections to and sessions of these institutions be made mandatory through appropriate legislation. Further, it envisages a mechanism like the Finance Commission at the State level to enable the State Government take an objective view of resources to be devolved or transferred to the district. It believes that this function can be undertaken by the re-designated State Planning and Finance Boards.

The Commission is of the view that "*it is neither advisable nor necessary to make any drastic changes in the basic character of the constitution*". The changes proposed by the commission in the functional aspects of Union State arrangements are far more substantial. The more

important of these relate to the role of Governor; reservation of State Bills for consideration of the President, use of the extraordinary powers under Articles 256, 257 and 356; establishment of standing Inter-Government council with a comprehensive character; National Economic and Development Council having a nexus with the planning Commission formalised under Article 263; limitation on centrally sponsored schemes regarding subjects in the exclusive State field; State Finance and Planning Board, restraint on excessive occupation by the Union of the Concurrent field; etc.

The recommendations of the Sarkaria Commission, if implemented, will go a long way to ensure smooth and harmonious working of the Union-State arrangements on principles of co-operative federalism. Normally a Commission with judicial integrity and mature administrative and public experience should command a lot of respect and its report a lot of weight. However, our country has bitter memories of so many commissions set up in the past. Some valuable reports are collecting dust in Government offices. Is it surprising then, that our people have become cynical and are losing faith in such reports & some would say that Commissions are appointed only to take the heat off from uncomfortable and manageable situations? The question is being asked

if the Sarkaria Commission's report is going to meet the same fate? Some recent-actions of the Government, such as the appointment of Governors, imposition of President's rule in the States have already attracted adverse comments.

In a country like India with such a large size and with a perplexing diversity in geography, language, race and culture, the stability of a democratic system depends largely on its ability to decentralise authority and build up self governing institutions of an integrated nature at all levels of the administration. However, in view of the great and urgent need for rapid economic development of the country, as a whole, the fathers of the constitution were compelled in assigning a predominantly leading role to the Central Government in the affairs of the nation. They were justified in doing so in the context of economic and social development in India at the time they framed the constitution. But if Centralisation becomes imperative for the political stability of the future there should be no problem. The structure of Indian polity has ultimately to be one based on the solid foundations of self governing local institutions at the village level which facilitate the building up of a hierarchy of well-Knit and units of administration at every successive higher level. The process of democracy in India is inseparably bound

with the extent to which these local institutions are established and the manner in which they function in the years to come.

Any constitution is only a means to an end and not an end in itself. It has no sanctity. It must conform to the needs and conveniences of the country and changing times. In an age like the present, when science and technology have made spectacular changes in the needs of human beings, no constitution can claim rigid permanence and at the same time be able to adapt itself to the changing conditions.

Fifty years are perhaps too short a period in the life of a nation. As such, an evaluation of the working of the constitution has only a limited significance. Many of the objectives set before the nation are yet to be realised. But still the trend is unmistakably clear. It was during this period that the initial tests of the constitution were conducted and the constitution, on the whole has worked fairly well and remained an inspiring document for the citizens of this great country. The future is bright and we should look ahead with confidence.

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